

CITY OF GREENSBORO

FATS, OILS, AND GREASE ENFORCEMENT RESPONSE PLAN

Section 1- Introduction

This Fats, Oils, and Grease Enforcement Response Plan [FOG ERP] document is a statement of policy by the City of Greensboro. It is NOT a regulation, code or statute and the City has the authority to amend this policy at any time in order to more effectively implement the City of Greensboro Fats, Oils and Grease Control Policy. This plan has been developed for guidance and is not intended to create legal rights or obligations, or to limit the enforcement discretion of the FOG Coordinator or the City of Greensboro.

This FOG Enforcement Response Plan is an effective way to ensure that the City of Greensboro takes fair, consistent and equitable enforcement actions against food service establishments (FSE) for violations of the FOG Control Policy and/or the City of Greensboro Sewer User and Pretreatment Ordinance. It should be noted that, even with an FOG ERP, judgment and flexibility will be needed at times in response to unusual instances of noncompliance. Some violations may require a response that deviates from the ERP depending on the particulars of the situation.

The enforcement philosophy of the City of Greensboro is progressive, in that problems are addressed at the lowest level and with the least formality possible consistent with the specific violation. However, no enforcement procedure is contingent upon the completion of any “lesser” activity.

In general, enforcement actions against food service establishment (FSE) will be taken in accordance with this Enforcement Response Plan, however, the enforcement actions listed here are not exclusive and the City of Greensboro reserves the right to implement other enforcement responses available to it under the Sewer User Ordinance and North Carolina law, separately or in combination with these responses.

Section 2 - Enforcement Actions Available Under the Fats, Oils and Grease Control Policy

The City of Greensboro is empowered by North Carolina General Statutes (NCGS) 143-215.6A and the City of Greensboro Sewer Use and Pretreatment Ordinance (“SUO”) to take a wide variety of enforcement actions. The following is a list of those actions.

INFORMAL ENFORCEMENT NOTIFICATION/ACTIONS	
Action	Description
Notice of Deficiency [NOD] and/or Notice to Correct [NTC]	Written notice that a violation/deficiency has occurred and should be corrected. In general, NTCs are used for minor isolated violations or as an initial step leading to an escalated enforcement response. NODs/NTCs are documented and kept on file.
Enforcement Meeting	Informal meeting used to gather information concerning noncompliance, discuss steps to alleviate noncompliance and determine the commitment level of the food service establishment.
Initiation of Self-Monitoring	Notice to a FSE to begin self-monitoring the effluent from the food preparation process discharge from the facility.
Employee Training Requirement	Used when the FOG coordinator feels that a violation has been caused by a food service establishment employee(s) lack of knowledge concerning FOG policy/SUO requirements.

FORMAL ENFORCEMENT NOTIFICATION/ACTIONS	
Action	Description
Notice of Violation [NOV]	A NOV is a written notice to the noncompliant food service establishment that a violation has occurred. A NOV includes a statement detailing the legal authority under which the City issued the NOV, a description of the violation(s) and the date(s) the violation(s) occurred. A NOV may require a response from the food service establishment that details the causes of the violation(s), and the correction action taken to correct the violation and prevent similar violations from occurring. In general a NOV is considered to be a more serious enforcement action than a NOD/NTC.
Civil Penalties	Administrative penalty issued to a food service establishment who fails to comply with any provision of the FOG policy and/or any applicable provision of the SUO. The City of Greensboro Sewer Use and Pretreatment Ordinance authorizes penalties of up to ten thousand dollars (\$10,000.00) per day per violation.
Consent Orders [CO]	A voluntary agreement with a non-compliant food service establishment that includes specific acts to be taken by the discharger to correct the noncompliance within a time period also specified in the order. COs may incorporate schedules of compliance (SOC), administrative penalties and/or termination of service. Such documents shall have the same force and effect as administrative orders and shall be judicially enforceable.
Administrative Order [AO]	Administrative Orders [AOs] are enforcement documents that direct food service establishments to undertake and/or to cease specified activities by specified deadlines. The terms of an AO may or may not be negotiated with food service establishments. AOs may incorporate compliance schedules, administrative penalties and/or termination of service.
Payment of Remediation/Clean-Up Costs and/or Cost Recovery	Notice to pay to the City of Greensboro costs associated with the clean-up or decontamination of a site after the discharge of substances into the sanitary sewer, storm sewer, surface waters and/or to the environment that cause interference, pass-through or sanitary sewer blockage. This includes clean up and decontamination of all structures/areas including residential, commercial, surface waters and the environment.
Termination of (Sewer) Service [TOS]	Termination of Service [TOS] is the revocation of a food service establishment's privilege to discharge wastewater from food preparation processes into the sanitary sewer system. TOS is used when the discharge from a FSE presents imminent endangerment to the health or welfare of persons, or the environment or threatens to interfere with the operation of the POTW collection system. TOS is also used as an escalating enforcement action when a noncompliant food service establishment fails to respond adequately to previous enforcement actions. TOS may be accomplished by physical severance of the FSE's connection to the collection system, issuance of an AO [Cease and Desist], which compels the FSE to immediately terminate its discharge, or a court ruling.

Civil Penalties

Civil penalties are in addition to assessed City reimbursement costs for:

- Legal fees
- Equipment repair or replacement
- Costs associated with the clean up or decontamination of a site after the discharge of substances into the sanitary sewer, storm sewer, surface waters and/or to the environment that cause interference, pass-through or sanitary sewer blockage. This includes clean up and decontamination of all structures/areas including residential, commercial, surface waters and the environment.
- Sampling/monitoring costs
- Any penalties assessed to the City resulting from the subject violation.

The FOG Coordinator reserves the right to assess the maximum penalty for any violation.

Section 3 - Personnel Responsible for Enforcement Actions

The City of Greensboro FOG Coordinator is responsible for all enforcement actions.

The City Attorney may be requested to review escalated penalties prior to issuance, if the FOG Coordinator, Water Resources Operations Manager and/or Water Resources Director deem it necessary.

Section 4 - Enforcement Considerations

In determining which enforcement measure(s) to use and the amount of any civil penalties, the FOG Coordinator may consider the following:

- a. The degree and extent of the impact/harm to the natural resources of the State, the public health, the POTW or public or private property as a result of the violation [including effect on groundwater, surface water or air quality];
- b. The duration and magnitude of the violation;
- c. The cost of repairing the damage to the POTW collection system, public or private property and/or the natural resources of the State;
- d. Whether the violation was committed negligently, grossly negligently, recklessly negligently, willfully or intentionally;
- e. The amount of money saved, if any, by noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;
- f. Cost incurred by the FSE in correcting the problem and FSE cooperation and good faith effort to resolve noncompliance.
- g. The prior record of the FSE in complying or failing to comply with the requirements of the FOG Control Policy, the Sewer Use and Pretreatment Ordinance, or other applicable law or regulation;

- h. The cost to the City [including legal fees, sampling/analytical costs, engineering/consulting fees, etc.] required, in the opinion of the City, to take necessary investigative/enforcement action, determine the nature and extent of damage, prevent further damage and repair any damage.
- i. The cost to the City for any civil penalties, fines, legal costs and/or other costs associated with any enforcement action or legal action taken against the City of Greensboro for Wastewater Collection System Permit violations, NPDES violations or other violations caused by the FSE violation(s).
- j. Violation(s) resulting from vandalism or the action of third-party entities
- k. Deficiencies or violations occurring as a result of circumstances beyond the FSE's control as determined by the FOG Coordinator

Section 5 - Investigation of Noncompliance

The FOG Coordinator will investigate compliance with the FOG Control Policy/Sewer Use and Pretreatment Ordinance in the following ways:

- a. On-site inspections of Food Service Establishments, including scheduled and unscheduled visits;
- b. Review of documentation of required cleaning/maintenance of grease retention units;
- c. Review of records/activities required to be documented and maintained by the User;
- d. Review of procedures and implementation of Enforceable Best Management Practices outlined in FOG Control Policy;
- e. Investigation of sanitary sewer overflows and spill and illegal discharges

Section 6 - ENFORCEMENT TIER LEVELS:

ENFORCEMENT TIER LEVELS/ACTIONS	
TIER I	Notice of Deficiency/Notice to Correct – No Civil Penalty Assessed
TIER II	Notice of Violation – Civil Penalty of \$0 - \$50 Assessed
TIER III	Notice of Violation – Civil Penalty of \$75 - \$100 Assessed
TIER IV	Notice of Violation – Civil Penalty of \$150 - \$500 Assessed
TIER V	Notice of Violation – Civil Penalty of \$500 - \$1000 Assessed
TIER VI	Notice of Violation - Civil Penalty of \$1000 - \$10,000 Assessed (Possible Consent Order or Administrative Order)
TIER VII	Consent Order/Administrative Order with Stipulated Penalties
TIER VIII	C/O/A/O with Stipulated Penalties and Termination of [Sewer] Service (TOS)

Please note that Reimbursements Costs are in addition to any civil penalties assessed.

Section 7 – Types of Violations

A. Minor Violation

1st Occurrence:

Inspection hindrance (equipment related)	TIER I
Failure to maintain on site records	TIER II
Failure to submit quarterly records	TIER II
Failure to pump grease trap/interceptor	TIER IV
Violation of E-BMP	TIER II

2nd Occurrence:

Inspection hindrance (equipment related)	TIER II
Failure to maintain on site records	TIER III
Failure to submit quarterly records	TIER III
Failure to pump grease trap/interceptor	TIER V
Violation of E-BMP	TIER III

3rd Occurrence:

Inspection hindrance (equipment related)	TIER III
Failure to maintain on site records	TIER IV
Failure to submit quarterly records	TIER IV
Failure to pump grease trap/interceptor	TIER VI
Violation of E-BMP	TIER IV

4th Occurrence & Up:

Inspection hindrance (equipment related)	TIER V
Failure to maintain on site records	TIER V
Failure to submit quarterly records	TIER V
Failure to pump grease trap/interceptor	TIER VII
Violation of E-BMP	TIER VI

B. Intermediate Violation

Failure to maintain necessary equipment (T's, grease trap/interceptor not watertight, baffles, etc.);

1 st Offense	TIER II
2 nd Offense	TIER IV
3 rd Offense	TIER VI
4 th Offense & Up	TIER VII

C. Denial of Right of Entry for Inspection

1 st Offense	TIER III – TIER V
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D. Major Violation

Source of sewer blockage	TIER V
Source of blockage causing sanitary sewer overflow	TIER VI
Falsification of maintenance records	TIER V